

THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 29th day of January, 2007

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W.P.No.20237 of 1995

Between:-

The Depot Manager,
APSRTC, Tandur, RR District

... Petitioner

and

The Presiding Officer,
Labour Court III, Hyderabad
and another

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.20237 of 1995

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to Award dated 22-12-1993 passed in I.D.No.111 of 1992 on the file of Labour Court-III, Hyderabad and set aside the same.

It appears, the 2nd respondent-workman raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 since he was terminated from service. It was his case that he was charge sheeted by the Corporation alleging that while conducting the bus on route Gurmitak to Tandur, he collected Rs.20/- from a batch of three passengers for their journey from Ex.stages 14 to 1 by issuing three Rs.0.80 ps denomination tickets instead of issuing tickets worth Rs.5.70 ps and also failed to issue ticket to another passenger though collected Rs.2/- from him and also closed all tray numbers upto stage No.14. It is his case that by conducting a farce of enquiry, he was removed from service. So, the enquiry is vitiated and the Order of removal from service is liable to be set aside and he is entitled for reinstatement with continuity of service and other benefits. Petitioner herein filed a counter before the Labour Court stating that the respondent-Conductor while conducting the bus service on 14-7-1984 on the route Yadgiri to Tandur, has committed cash and ticket irregularities and therefore, a charge sheet was issued to him. After giving reasonable opportunity, he was removed from service. Before the Labour Court, no oral evidence was adduced by either side; however, on behalf of the Management, Exs.M1 to M13 were marked.

After a detailed consideration of the evidence made available before it, the Labour Court came to the conclusion that the punishment of removal from service does not commensurate with the gravity of the offence said to have been committed by the 2nd respondent. Regulation 8 of the Conduct Regulations gives discretion to impose lesser punishment; while so reasons are to be given for imposing the ultimate punishment of removal from service. Therefore, the impugned Order of removal from service was set aside and the petitioner herein was directed to reinstate the 2nd respondent into service and pay all attendant benefits. However, as a measure of punishment, one increment was directed to be deducted, as if not accrued. In view of the past record of the 2nd respondent and on the principle of 'no work no pay', back wages were denied. Challenging the same, the present Writ Petition is filed

Learned counsel for the petitioner-Management strenuously contended that whether it is Rs.7.50 ps or Re.1/- it makes no difference and the punishment has to be imposed on the basis of the misconduct, but not on the basis of the volume of the loss caused to the Corporation. May be, the loss caused to the revenue of the Corporation is only Rs.7.50, but, that does not mean that the 2nd respondent-workman is entitled for reinstatement with continuity of service, but without back wages etc.

I have given my earnest consideration to the submissions made by the learned counsel for the petitioner and perused the impugned Award and other material made available on record.

At the outset, I am of the opinion that the Labour Court while exercising its discretion under Section 11-A of the Act, in the facts and circumstances of the case, has taken a decision that the punishment imposed by the Management is disproportionate to that of the

misconduct alleged against the workman and as such, directed reinstatement of the workman with continuity of service, but without any back wages. Basing on the material available on record, the Labour Court rightly found that the charges alleged against the workman were proved. The Labour Court also found that either in the show cause notice or in the removal order there is no whisper as to the earlier punishments. Therefore, the Labour Court while exercising the powers under Section 11-A of the Act, correctly set aside the Order of removal and directed for reinstatement of the 2nd respondent with continuity of service and without any back wages. I am of the view that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

29-1-2007

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